

I. Restriction Requirement

Applicants hereby affirm their election of Group I (claims 13-15 and 19). By this Amendment, non-elected claims 16-18 have been canceled.

II. Obviousness-Type Double Patenting Rejection

Claims 13-15 and 19 were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-16 of U.S. Patent No. 5,538,717.

Submitted with this Amendment is an appropriate Terminal Disclaimer. In view of the filing of the Terminal Disclaimer, Applicants respectfully submit that this rejection is overcome. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Finally, in response to the inquiry in paragraph 9 of the Office Action, Applicants submit that the invention of the present application and U.S. Patent No. 5,538,717 were commonly owned at the time of the invention in the present application. Both U.S. Patent No. 5,538,717 and the present application are assigned to L'Oreal.

III. Rejections Under 35 U.S.C. §103(a)

A. Relying Upon Russiello

Claims 13-15 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Russiello (U.S. Patent No. 4,554,308). This rejection is respectfully traversed.

Applicants note that claim 19 was not rejected based upon the teachings of Russiello. By this Amendment, claim 13 has been amended to indicate that the neutralized polyester polyurethane is non-crosslinked, i.e., to include the subject matter previously recited in claim 19. Accordingly, Applicants respectfully submit that Russiello fails to teach or suggest the

pseudolatex of present claim 13, and reconsideration and withdrawal of this rejection are respectfully requested.

B. Relying Upon Fujii

Claims 13-15 and 19 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Fujii (U.S. Patent No. 5,011,881). This rejection is respectfully traversed.

Fujii discloses an aqueous thermoplastic coating for plastic substrates comprising a composition of an aqueous acrylic resin and a urethane resin emulsion. The urethane resin emulsion is a self-emulsifiable urethane emulsion prepared by chain extending a urethane prepolymer in water or during neutralization with a tertiary amine. See the Abstract.

According to Fujii at column 4, lines 33-50, the urethane prepolymer is synthesized by subjecting to a one-shot or multi-stage polymerization, optionally in a hydrophilic organic solvent free of active hydrogen in the molecule, (i) an aliphatic and/or dicyclic diisocyanate, (ii) a polyether diol or polyester diol both having a number-average molecular rate of about 500 to about 5,000 or a mixture thereof, (iii) a low molecular weight polyhydroxyl compound, and (iv) a dimethylolalkanoic acid in an NCO/OH equivalent ratio of 1.1 -1.9:1. The obtained prepolymer is then mixed with water after or during neutralization of prepolymer with a tertiary amine, and the resulting mixture is subjected to reaction for chain extension by water while being emulsified and dispersed in water. Thereafter, when required, the organic solvent is distilled off.

Contrary to the above process described in Fujii, the claimed invention uses a polyester diol of formula (IV) having a chemical structure that is nowhere disclosed or taught in Fujii. Compare Fujii at column 5, lines 4-30 to pages 5-6 of the present specification.

By using as a starting material a polyester diol of formula (IV), it is not possible to obtain a polyester polyurethane having a structure similar or comparable to the urethane

obtained by the process of Fujii. It results from the different starting material used in Fujii that the urethane resin emulsion of Fujii is structurally different from the polyester polyurethane in the presently claimed pseudolatex.

A main advantage of using a two-step process is to obtain a non-crosslinked polyester polyurethane which is not obtainable in a one-step process such as disclosed by Fujii or Russiello, the process of Russiello being very similar to the process described in Fujii.

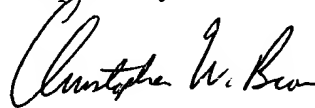
For at least the foregoing reasons, it is evident that the urethane resin emulsion described in Fujii is structurally different from the polyester polyurethane in the pseudolatex of present claim 13. Fujii does not teach or suggest, and would not have led one of ordinary skill in the art to, a polyester polyurethane having the structure defined in claim 13 for all of the foregoing reasons. Applicants thus respectfully submit that contrary to the conclusion in the Office Action, one of ordinary skill in the art would not have found the presently claimed invention obvious from the teachings of Fujii. Reconsideration and withdrawal of this rejection are respectfully requested.

IV. Conclusion

For at least the foregoing reasons, Applicants respectfully submit that claims 13-15 are in condition for allowance. Should the Examiner believe that anything further is

necessary in order to place the application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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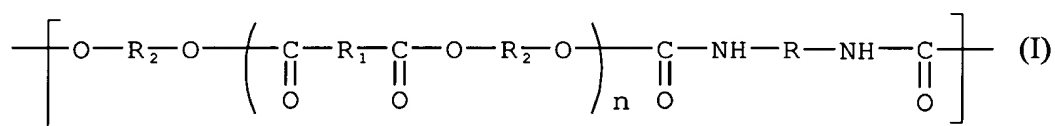
APPENDIX

Changes to the Claims:

Claims 16-19 are cancelled.

Claim 13 is amended. The following is a marked-up version of the amended claim:

13. (Amended) A stable pseudolatex comprising in suspension in a suitable aqueous phase particles of anon-crosslinked neutralized polyester polyurethane, wherein the polyester polyurethane contains units corresponding to the following formulae (I) and (II):



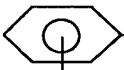
in which:

R represents an alkylene or cycloalkylene radical or a bivalent aromatic radical having from 6 to 15 carbon atoms,

n represents an integer such that the molecular weight of the recurring unit is between 400 and 5,000,

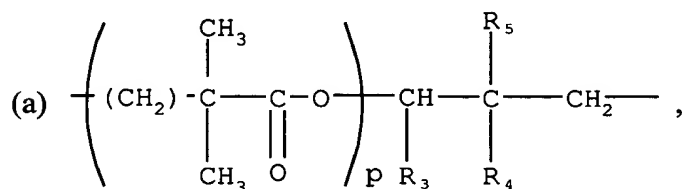
R₁ represents a bivalent radical selected from the group consisting of:

(i) $-(\text{CH}_2)_m-$, m being an integer between 2 and 12, and

(ii) , the movable bond being in the ortho, meta or para position,

position,

R₂ represents a bivalent radical selected from the group consisting of:

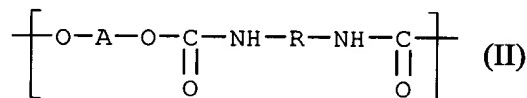
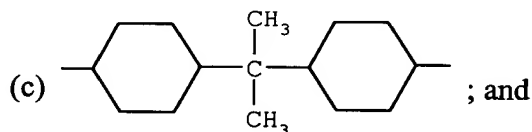
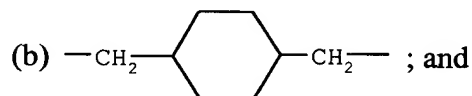


R_3 representing a hydrogen atom or a branched alkyl radical having from 1 to 3 carbon atoms,

R_4 representing a hydrogen atom or a linear or branched alkyl radical having from 1 to 4 carbon atoms,

R_5 representing a linear or branched alkyl radical having from 1 to 4 carbon atoms, and

p being 0 or 1;



in which:

R is as defined above for the units of formula (I),

A represents an alkylene radical having from 2 to 20 carbon atoms, substituted with a carboxylic or sulphonic acid function, or interrupted by a tertiary nitrogen atom,

wherein the mole ratio between the units (II) and units (I) being between 1:1 and 10:1,

wherein the carboxylic acid or sulphonic acid function is neutralized with a neutralizing agent selected from the group consisting of an inorganic base and an organic base, and the tertiary nitrogen atom is neutralized with a neutralizing agent selected from the group consisting of an inorganic acid and an organic acid, the degree of neutralization being between 20 and 100%, and

wherein the average diameter of the particles is between 5 and 300 nm.